

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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| BLAKE MAISLIN as Administrator of the ESTATE OF GLENARA BATES, et al., | : | Case No.: <u>1:15-cv-00798-TSB-KLL</u> |
| | : | |
| | : | U.S. District Judge: Timothy S. Black |
| | : | |
| Plaintiffs, | : | Mag. Judge: Karen L. Litkovitz |
| | : | |
| vs. | : | <u>PLAINTIFFS' APPLICATION FOR</u> |
| | : | <u>REQUEST FOR ENTRY OF DEFAULT</u> |
| HAMILTON COUNTY | : | <u>AGAINST DEFENDANTS ANDREA</u> |
| DEPARTMENT OF JOB AND | : | <u>BRADLEY AND GLEN BATES</u> |
| FAMILY SERVICES, et al., | : | |
| | : | |
| Defendants | : | |

NOW COME Plaintiffs Blake R. Maislin, Administrator of the Estate of Glenara Bates, et.al., by and through undersigned counsel, and hereby apply for Default Judgment against Defendant Andrea Bradley and against Defendant Glen Bates, pursuant to Fed. R. Civ. P. 55. A concise memorandum in support of this Motion follows, to which this Court's attention is respectfully drawn.

Respectfully Submitted,

/s/ Blake R. Maislin
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MEMORANDUM

A. Standard for Entry of Default

Pursuant to Fed. R. Civ. P. 55(a), prior to seeking a default judgment, Plaintiffs must first obtain an Entry of Default as delineated in Rule 55(a). *United Coin Meter Co. v. Seaboard Coastline R.R.*, 705 F.2d 839, 844 (6th Cir. 1983); *Brantley v. Runyon*, No. C-1-96-842, 1997 WL 373739, at *1 (USDC, S.D. Ohio, June 19, 1997)

Upon a party's default, the well-pleaded allegations of the complaint related to liability are taken as true. See *Antoine v. Atlas Turner, Inc.*, 66 F.3d 105, 110-11 (6th Cir. 1995). See also *Trice v. Lake & Country Real Estate*, No. 86-1205, 1987 WL 38852, at *2 (6th Cir. Oct. 29, 1987) (citing *Dundee Cement Co. v. Howard Pipe & Concrete Prods.*, 722 F.2d 1319, 1323(7th Cir. 1983)).

B. Procedural History

The Complaint for this wrongful death/civil rights matter was filed on December 16th, 2015. The docket of this Court reflects that Defendant Andrea Bradley was duly served with Summons and Complaint on January 27, 2017, when she was incarcerated at the Hamilton County Justice Center, under inmate ID # 1563103. [See Doc. #64]. Defendant Glen Bates was duly served with Summons and Complaint via Certified U.S. mail service, return receipt requested at the Chillicothe Correctional Institution, on January 30, 2017, where he was incarcerated. [See Doc. #65].

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|------------|--------------------|--|
| 02/07/2017 | 64 | SUMMONS Returned Executed as to Defendant Andrea Bradley. Andrea Bradley served on 1/27/2017, answer due 2/17/2017. (jlw) (Entered: 02/07/2017) |
| 02/07/2017 | | Notice of Correction re: 63 Notice (Other), This document was filed incorrectly. It appears to be a summons returned executed. Clerk |

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|------------|--------------------|---|
| | | refiled using correct category, and restricted 63 to court users only. (jlw) (Entered: 02/07/2017) |
| 02/07/2017 | 65 | SUMMONS Returned Executed as to Defendant Glen Bates. (Attachments: # 1 Summons Form Proof of Service, # 2 Exhibit Domestic Return Receipt) (Byrd, Randy) (Entered: 02/07/2017) |

Neither Defendant Andrea Bradley nor Defendant Glen Bates have filed any response to the Complaint. Accordingly, Plaintiffs are entitled to an Entry of Default against each Defendant Andrea Bradley and Defendant Glen Bates, pursuant to Fed.R.Civ.P. 55(a).

C. Relief Requested

Based upon the foregoing analysis, Plaintiffs request that this Court grant the Plaintiffs' Application for Request for Entry of Default against **each Defendant, Andrea Bradley and Glen Bates, pursuant to Fed. R. Civ. P. 55(a).**

Respectfully Submitted,

/s/ Blake R. Maislin

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CERTIFICATE OF SERVICE

I hereby certify that on this **22nd** day of **March, 2019**, I have filed the foregoing **document** through the Clerk of the United States District Court's CM/ECF electronic filing system, which will serve all parties and counsel of record, who have appeared, including those listed below and constitutes sufficient service by rule. Further, I have served the following parties via regular U.S. mail service, postage prepaid, on this **22nd** day of **March 2019**:

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/s/ **Blake R. Maislin**
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